



## WYOMING LEGISLATIVE SERVICE OFFICE

# Research Memorandum

## GOVERNANCE AND FUNDING OF AIRPORT AUTHORITIES IN OTHER RURAL STATES

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by

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### SUMMARY:

This memorandum analyzes how municipalities or political subdivisions may create airport authorities in Wyoming and four other rural states (Nebraska, Montana, North Dakota, and South Dakota). The memorandum focuses on the governance of these authorities by reviewing the composition of the boards that govern airport authorities, and the powers state laws grant these boards. The memorandum also provides an analysis of the funding of these airport authorities by focusing on tax levies and bond issuance.

### MONTANA:

The Montana Code provides that any municipality may create a municipal airport and that at least two municipalities, by a joint resolution, may form a regional airport authority.<sup>1 2</sup> The Montana laws require the appointment of at least five commissioners for both types of airport authorities, selected either by the one governing municipal body for a city airport or at least two governing municipal bodies for regional airports.<sup>3 4</sup> The Montana Code specifies that municipalities may join or leave a regional airport authority if each municipality composing the authority consents to that expansion or reduction.<sup>5</sup>

The Montana laws establish that municipal and regional airport authorities have the power to certify the levied tax amount for airport purposes annually.<sup>6</sup> The Montana Code establishes that a governmental entity, including airport authorities, may impose a mill levy sufficient to generate the amount of property tax assessed in the prior year plus one-half of the average inflation rate for

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<sup>1</sup> 67-11-102, MCA

<sup>2</sup> 67-11-103, MCA

<sup>3</sup> 67-11-102, MCA

<sup>4</sup> 67-11-103, MCA(1)

<sup>5</sup> 67-11-103, MCA(2)

<sup>6</sup> 67-11-301, MCA and 67-11-302, MCA

the three preceding years.<sup>7</sup> Further, the Montana laws specify that the tax levy must not exceed the maximum level established in the resolution creating the airport authority. The Montana Code authorizes airport authorities to issue bonds to support their activities.<sup>8</sup>

Among the other powers granted to airport authorities are the power to sue and be sued, the power to plan, establish, operate, and maintain airport facilities, and the power to acquire existing airports with the consent of the authority currently controlling the airport.<sup>9</sup>

#### **NEBRASKA:**

The Nebraska Statutes establish three classes of airport authorities: city, county, and joint. The statutes provide that any city or county may create an airport authority<sup>10 11</sup> and that any political subdivision, authorized to create an airport authority, may agree with one or more political subdivisions to create a joint airport authority.<sup>12</sup>

Nebraska laws provide that boards of five commissioners manage and control airport authorities. For city airport authorities, the mayor or city council appoints or nominates, depending on the city size, five members who are subject to city council approval.<sup>13</sup> In one class of municipal jurisdiction, the appointed board members serve until replaced by their elected successors.<sup>14</sup> For county airport authorities, the county board creating the authority appoints board members to serve until replaced by elected successors.<sup>15</sup> For joint airport authorities, the agreement between the different political subdivisions must specify the number of board members, which may not exceed five, each representing a district within the geographic boundaries of the agreement.<sup>16</sup>

The Nebraska laws outline the powers granted to airport authorities, including the power to sue and be sued, the power to plan, establish, operate, and maintain airport facilities, and the power to acquire, hold, and dispose of personal property for corporate purposes.<sup>17</sup>

Concerning funding, airport authorities can annually certify to each tax-levying body the amount of tax to be levied for airport purposes.<sup>18</sup> For all airport authorities, the amount may not exceed three dollars and five-tenths cent on each one hundred dollars of taxable valuation of all the taxable

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<sup>7</sup> 15-10-420, MCA

<sup>8</sup> 67-11-303, MCA

<sup>9</sup> 67-11-201, MCA

<sup>10</sup> R.R.S. Neb. § 3-502(1)

<sup>11</sup> R.R.S. Neb. § 3-601

<sup>12</sup> R.R.S. Neb. § 3-702

<sup>13</sup> R.R.S. Neb. § 3-502(3)

<sup>14</sup> *Ibid.*

<sup>15</sup> R.R.S. Neb. § 3-611

<sup>16</sup> R.R.S. Neb. § 3-703

<sup>17</sup> R.R.S. Neb. § 3-504, R.R.S. Neb. § 3-613, and R.R.S. Neb. § 3-707

<sup>18</sup> R.R.S. Neb. § 3-504 (12), R.R.S. Neb. § 3-707 (7), and R.R.S. Neb. § 3-707(11)

property within the geographic boundaries of the joint agreement.<sup>19</sup> Nebraska laws also authorize airport authorities to issue and sell bonds to support airport activities.<sup>20</sup>

#### **NORTH DAKOTA:**

The North Dakota Code provides that the governing body of a municipality may create a municipal airport authority and that the governing bodies of at least two municipalities, by a joint resolution, may form a regional airport authority.<sup>21 22</sup> The North Dakota Code requires the appointment of at least five commissioners for both types of airport authorities, selected either by the one governing municipal body for a city airport or by at least two governing municipal bodies for regional airports.<sup>23 24</sup> North Dakota laws specify that municipalities may join or leave a regional airport authority if each municipality composing the authority consents to that expansion or reduction.<sup>25</sup>

The North Dakota Code delineates the powers of airport authorities. Among these is the power to certify the amount of the proposed tax to be levied by the airport authorities' governing bodies for airport purposes.<sup>26</sup> However, North Dakota statutorily limits to four mills the tax levy that a county, city, or township may establish to support an airport authority.<sup>27</sup> North Dakota's airport authorities also have the power to issue and sell bonds to assist with funding and carrying out the authorities' activities.<sup>28</sup>

Additional powers include the power to sue and be sued, the power to plan, establish, operate, and maintain airport facilities, and the power to acquire existing airports with the consent of the authority currently controlling the airport.<sup>29</sup>

#### **SOUTH DAKOTA:**

The South Dakota Code establishes that any subdivision may, by resolution, create a regional airport authority and requires that the governing bodies forming the authority appoint not less than five persons as commissioners.<sup>30</sup> The board members will be appointed for five-year terms.<sup>31</sup> The South Dakota Code delineates the power of regional airport authorities, which includes the power

<sup>19</sup> R.R.S. Neb. § 3-504 (12), R.R.S. Neb. § 3-707 (7), and R.R.S. Neb. § 3-707(11)

<sup>20</sup> R.R.S. Neb. § 3-507, R.R.S. Neb. § 3-617, and R.R.S. Neb. § 3-710

<sup>21</sup> N.D. Cent. Code, § 2-06-02

<sup>22</sup> N.D. Cent. Code, § 2-06-03

<sup>23</sup> N.D. Cent. Code, § 2-06-02

<sup>24</sup> N.D. Cent. Code, § 2-06-03

<sup>25</sup> N.D. Cent. Code, § 2-06-03

<sup>26</sup> N.D. Cent. Code, § 2-06-07

<sup>27</sup> N.D. Cent. Code, § 2-06-15

<sup>28</sup> N.D. Cent. Code, § 2-06-10

<sup>29</sup> N.D. Cent. Code, § 2-06-07

<sup>30</sup> S.D. Codified Laws § 50-6A-2

<sup>31</sup> *Ibid.*

to sue and be sued<sup>32</sup>, the power to plan, establish, operate, and maintain airport facilities<sup>33</sup>, and the power to acquire existing airports with the consent of the authority currently controlling the airport.<sup>34</sup>

The South Dakota laws provide that a regional airport authority may incorporate additional subdivisions if the commissioners of the regional authority and the additional subdivisions adopt a resolution to the authority's expansion.<sup>35</sup> Subdivisions within a regional airport authority may withdraw, subject to consent from the commissioners.<sup>36</sup>

Concerning funding, the South Dakota Code establishes that counties or municipalities may make a levy to support airport authorities but may not exceed two dollars and forty cents per thousand dollars of taxable valuation of property in such county or municipality.<sup>37</sup> Regional airport authorities have the power to borrow money and issue bonds to carry out and support their activities.<sup>38</sup>

#### **WYOMING:**

The Wyoming Statutes establish that municipal corporations and counties, acting either singly or jointly, may acquire land and other property for airport purposes and construct, maintain, and operate airport facilities.<sup>39</sup> The Wyoming laws provide that an airport board, appointed by the municipal or county governing body may carry out the powers granted to municipalities and counties.<sup>40 41</sup> The Wyoming laws specify that an airport board must be composed of five members who are appointed for five-year terms.<sup>42</sup>

An additional power granted to an airport board is to issue revenue bonds and levy taxes to fund airport activities.<sup>43</sup> Unlike other states in this memorandum, Wyoming statutes do not appear to add an additional tax levy limit for airport boards, but it is likely that they are subject to constitutional levy limits.<sup>44 45</sup> The Wyoming Statutes require that all taxes collected, and monies received from the sale of bonds be placed in an airport fund.<sup>46</sup>

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<sup>32</sup> S.D. Codified Laws § 50-6A-15

<sup>33</sup> S.D. Codified Laws § 50-6A-16

<sup>34</sup> S.D. Codified Laws § 50-6A-17

<sup>35</sup> S.D. Codified Laws § 50-6A-11

<sup>36</sup> S.D. Codified Laws § 50-6A-12

<sup>37</sup> S.D. Codified Laws § 50-6A-24

<sup>38</sup> S.D. Codified Laws § 50-6A-29

<sup>39</sup> Wyo. Stat. § 10-5-101

<sup>40</sup> Wyo. Stat. § 10-5-202(a)

<sup>41</sup> Wyo. Stat. § 10-5-101(a)(vi)

<sup>42</sup> Wyo. Stat. § 10-5-202(a)

<sup>43</sup> Wyo. Stat. § 10-5-201

<sup>44</sup> Wyo. Const. Art. 15, § 5

<sup>45</sup> Wyo. Const. Art. 15, § 6

<sup>46</sup> *Ibid.*

If you have any further questions, please do not hesitate to contact LSO Research and Evaluation at 777-7881.